

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

TYSON FOODS, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 07-0167-CV-W-GAF
)	
VAN LUIN FOODS USA, INC.,)	
)	
Defendant.)	

MEMORANDUM

I intend to enter an Order granting Plaintiff's Motion for Preliminary Injunction. I do not believe the evidence supports a finding that Tyson Foods and Van Luin entered into an agreement, either written or oral, with respect to Purchase Order 66246 which required arbitration of any disputes. I do not believe an agreement to arbitrate can be implied from any course of dealing between the parties in this case and it is not necessary for me to decide whether course of dealings in another scenario might be sufficient to bind other parties to arbitration. I do not believe that a bond is necessary or should be required in this case.

I am asking that Plaintiff present a proposed order consistent with my position.

s/ Gary A. Fenner
GARY A. FENNER, JUDGE
UNITED STATES DISTRICT COURT

DATED: April 26, 2007